

EXHIBIT 32

<p>1 IN THE U.S. DISTRICT COURT FOR MARYLAND</p> <p>2 SOUTHERN DIVISION</p> <p>3 -----+</p> <p>4 BEYOND SYSTEMS, INC. +</p> <p>5 Plaintiff + Case No.</p> <p>6 v. + 8:08-cv-00921-PJM</p> <p>7 WORLD AVENUE U.S.A., LLC et al. +</p> <p>8 Defendant. +</p> <p>9 -----+</p> <p>10</p> <p>11 Videotaped 30(b)(6) Deposition of</p> <p>12 CHADD SCHLOTTER</p> <p>13 for</p> <p>14 WORLD AVENUE USA, LLC</p> <p>15 Washington, D.C.</p> <p>16 Thursday, February 18, 2010</p> <p>17 10:11 A.M.</p> <p>18</p> <p>19 Job No.: 1-173909</p> <p>20 Pages 1 - 331</p> <p>21 Reported by: Denice Z. Lombard, CSR</p> <p>22 Videotaped by: Terry Michael King</p>	<p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 ON BEHALF OF PLAINTIFF:</p> <p>4 STEPHEN H. RING, ESQUIRE</p> <p>5 LAW OFFICES OF STEPHEN H. RING., P.C.</p> <p>6 506 Main Street, Suite 215</p> <p>7 Gaithersburg, Maryland 20878</p> <p>8 (301) 540-8180</p> <p>9 -and-</p> <p>10 MICHAEL S. ROTHMAN, ESQUIRE</p> <p>11 LAW OFFICES OF MICHAEL S. ROTHMAN</p> <p>12 401 East Jefferson Street, Suite 201</p> <p>13 Rockville, Maryland 20850</p> <p>14 (301) 251-9660</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>
<p>1 Deposition of CHADD SCHLOTTER,</p> <p>2 held at the offices of:</p> <p>3</p> <p>4 GREENBERG TRAURIG, LLP</p> <p>5 2101 L Street, Northwest</p> <p>6 Suite 1000</p> <p>7 Washington, D.C. 20037</p> <p>8 (202) 331-3100</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20 Pursuant to agreement, before Denice Z.</p> <p>21 Lombard, Certified Shorthand Reporter and Notary Public</p> <p>22 in the District of Columbia.</p>	<p>1 A P P E A R A N C E S, continued</p> <p>2</p> <p>3 ON BEHALF OF DEFENDANT:</p> <p>4 SANFORD M. SAUNDERS, JR., ESQUIRE</p> <p>5 GREENBERG TRAURIG, LLP</p> <p>6 2101 L Street, Northwest</p> <p>7 Suite 1000</p> <p>8 Washington, D.C. 20037</p> <p>9 (202) 331-3100</p> <p>10</p> <p>11 ALSO PRESENT: Paul Wagner and Jeff Richard.</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>

<p>9</p> <p>1 Denice Lombard of Merrill/LAD. Would the reporter 2 please swear in the witness. 3 (Witness sworn.) 4 THE VIDEOGRAPHER: Please begin, sir. 5 --oOo-- 6 CHADD SCHLOTTER 7 having been duly sworn, testified as follows: 8 EXAMINATION BY COUNSEL FOR PLAINTIFF 9 BY MR. RING: 10 Q State your full name, please. 11 A Chadd Everett Schlotter. 12 Q And spell your last name. 13 A S-c-h-l-o-t-t-e-r. 14 Q Where are you employed? 15 A Sunrise, Florida. 16 Q And what entity employs you? 17 A World Avenue USA, LLC. 18 Q How long have you been with World Avenue USA, 19 LLC? 20 A Since March of 2007. 21 Q What's your current position? 22 A I am the senior security architect.</p>	<p>11</p> <p>1 A Yes. 2 Q And what did you review? 3 MR. SAUNDERS: Objection. Calls for 4 privileged materials and work product. Direct the 5 witness not to answer. 6 MR. RING: Are you directing him not to 7 answer? 8 MR. SAUNDERS: Yes. 9 MR. RING: I take exception to your direction. 10 We'll seek appropriate remedies. 11 Q Who besides counsel did you speak with in 12 preparation for today's deposition? 13 A Other employees of World Avenue USA. 14 Q Who? 15 A Bill Skoundridakis. 16 Q Can you spell his last name? 17 A I can try. S-k-o-u-n-d-r-i-a-k-i-s I 18 believe -- no, -dakís, -d-a-k-i-s. Sorry. 19 Q And I think I asked you who did you speak 20 with. I meant who did you communicate with, so let me 21 broaden the question out. 22 A Sure.</p>
<p>10</p> <p>1 Q Have you held any other positions with World 2 Avenue USA, LLC since you started there? 3 A No. 4 Q What are your duties as senior security 5 architect? 6 A On a daily basis my duties involve monitoring, 7 maintaining, managing networking and security gear for 8 World Avenue USA, LLC. 9 Q What is security gear? 10 A Firewalls; some portions of router 11 configurations; VPN devices; intrusion-detection, 12 intrusion-prevention devices; anti-virus software. 13 That's pretty much . . . 14 Q Okay. Now, you're here today as a designee 15 for your employer World Avenue USA, LLC, correct? 16 A That's correct. 17 Q And have you been prepared for today's 18 deposition? 19 A Yes. 20 Q How did you prepare for today's deposition? 21 A Met with counsel. 22 Q And did you review documents?</p>	<p>12</p> <p>1 Q Who else at -- can we abbreviate this and 2 shorten it to WAUSA for an acronym? 3 A WAUSA? 4 Q Yeah, or what would you like to call it for 5 short? 6 A World Avenue is fine. 7 Q World Avenue. 8 A Yeah. 9 Q Okay. So as we say "World Avenue" during this 10 deposition, at least until we change -- until we say 11 otherwise, you'll understand that it means World Avenue 12 USA, LLC; is that right? Is that fair? 13 A That's fair. 14 Q Okay. So who else at World Avenue did you 15 communicate with in preparation for today's depo? 16 A I believe -- that's the only one I can think 17 of right now. 18 Q And what's Mr. Skoundridakis's position? 19 A He's the director of information technology. 20 Q Who do you report to in your position as 21 senior security architect? 22 A I report directly to the CTO.</p>

<p>13</p> <p>1 Q Who is that?</p> <p>2 A His name is Scott Barbour.</p> <p>3 Q How long has he been CTO?</p> <p>4 A I don't really have the date.</p> <p>5 Q Was he there before you arrived, in that</p> <p>6 position?</p> <p>7 A Yes.</p> <p>8 Q So he's been CTO at least since March of '07,</p> <p>9 correct?</p> <p>10 A I believe that's correct.</p> <p>11 Q And have you reported to him as your superior</p> <p>12 during the entire time you've been at World Avenue?</p> <p>13 A No, I have not.</p> <p>14 Q Who else have you reported to in the past?</p> <p>15 A I've reported to a couple other employees who</p> <p>16 are no longer there.</p> <p>17 Q And who are they?</p> <p>18 A The first one was Ed Traylor.</p> <p>19 Q T-r-a-y?</p> <p>20 A I believe that's how he spelled it, yes.</p> <p>21 Q -- -l-o-r, I'm guessing?</p> <p>22 A I think so, yes.</p>	<p>15</p> <p>1 us know. We'll be happy to accommodate. The only</p> <p>2 condition would be not when a question is spending.</p> <p>3 Fair enough?</p> <p>4 A Okay.</p> <p>5 Q And if anything I ask you is unclear, please</p> <p>6 say so and I'll try to rephrase the question, or I</p> <p>7 might ask the reporter to repeat the question for us.</p> <p>8 Fair enough?</p> <p>9 A Okay.</p> <p>10 MR. RING: Let me first have this document</p> <p>11 marked as Exhibit 1. It's the notice. It's 16 pages.</p> <p>12 (Whereupon, Plaintiff's Exhibit 1 was marked</p> <p>13 for identification and attached to the transcript.)</p> <p>14 MR. RING: Mr. Schlotter, I'm handing you</p> <p>15 what's been marked as Deposition Exhibit 1 which I'll</p> <p>16 describe as an amended deposition notice.</p> <p>17 Q Have you seen this before?</p> <p>18 A I'm not sure that this is the exact one I've</p> <p>19 seen before, but I have seen one of the deposition</p> <p>20 notices.</p> <p>21 Q All right. And did you get a chance to read</p> <p>22 through the deposition notice, whether it's this</p>
<p>14</p> <p>1 Q Okay. And who else?</p> <p>2 A John Napper.</p> <p>3 Q Any others?</p> <p>4 A I'm trying to think. I believe that's the</p> <p>5 only two.</p> <p>6 Q Were they also CTOs?</p> <p>7 A No.</p> <p>8 Q What were their titles?</p> <p>9 A Ed Traylor was the manager of system</p> <p>10 administration. And John Napper was the vice president</p> <p>11 of -- vice president of operations I believe.</p> <p>12 Q Okay. Have you been deposed before?</p> <p>13 A I have not.</p> <p>14 Q You understand that in the deposition I'll be</p> <p>15 asking you questions as I have been, and I'll ask that</p> <p>16 you answer after I stop my question. Fair enough?</p> <p>17 A Okay.</p> <p>18 Q We have to be careful not to talk on top of</p> <p>19 each other okay?</p> <p>20 A All right.</p> <p>21 Q So that's one of our basic ground rules.</p> <p>22 Another one would be if you need a break, let</p>	<p>16</p> <p>1 precise one or some other?</p> <p>2 A Yes.</p> <p>3 Q And if you would just take a minute and look</p> <p>4 through it quickly.</p> <p>5 A Okay.</p> <p>6 Q I don't want you to take the time to read</p> <p>7 every word.</p> <p>8 A Sure.</p> <p>9 Q But if you could just generally flip through</p> <p>10 it, I'm going to ask you, and give you a fair chance to</p> <p>11 look at it, and see if it appears to be substantially</p> <p>12 the same as the document that you reviewed.</p> <p>13 MR. SAUNDERS: Object to the form of the</p> <p>14 question.</p> <p>15 You can go ahead and answer.</p> <p>16 (Witness reviews document)</p> <p>17 MR. RING: You know I think I'll withdraw the</p> <p>18 question. Without the other document here it's</p> <p>19 probably not fair for you to try to remember what it</p> <p>20 said and compare the two. So let's just withdraw that</p> <p>21 question and I'll ask again.</p> <p>22 Q You did review some document that you</p>

<p>25</p> <p>1 A I don't know.</p> <p>2 Q It might just be one or two pages.</p> <p>3 A I can't speculate.</p> <p>4 Q Okay. Did you delegate the search task to</p> <p>5 anyone else?</p> <p>6 A I personally did not.</p> <p>7 Q Did anyone else delegate the search task to</p> <p>8 anyone else?</p> <p>9 A I'm sure they must have, but again, I would be</p> <p>10 speculating.</p> <p>11 Q All right. Stay with paragraph 2. What else</p> <p>12 did you find under that paragraph?</p> <p>13 A I believe that peripheral devices were also on</p> <p>14 the same document that contained the servers.</p> <p>15 Q Okay. What else did you find?</p> <p>16 A I think that's it, I personally found.</p> <p>17 Q What is the business of World Avenue?</p> <p>18 A World Avenue is a services company.</p> <p>19 Q What services does it provide?</p> <p>20 A Technology resources for customers.</p> <p>21 Q What do you mean by technology resources?</p> <p>22 A People, servers, band width.</p>	<p>27</p> <p>1 MR. SAUNDERS: Just last time we gave each</p> <p>2 other some leeway on the issue of building a foundation</p> <p>3 so we have some context. So we're in there, and</p> <p>4 that's -- we did it last time. I just wanted -- as you</p> <p>5 did last time, we established some parameters, and then</p> <p>6 we live with them.</p> <p>7 MR. RING: We're going go into some</p> <p>8 foundational questions that will involve the related</p> <p>9 entities, yes. Okay?</p> <p>10 Q Let me just stay with the paragraph 2 for a</p> <p>11 minute. You mentioned peripheral devices. What</p> <p>12 peripheral devices were you referring to?</p> <p>13 A I believe on that document there were hard</p> <p>14 drives. That's really the only ones that I remember</p> <p>15 seeing.</p> <p>16 Q And you referred to operation of servers, you</p> <p>17 found documents pertaining to servers.</p> <p>18 How many servers are you talking about?</p> <p>19 A I don't believe that I said "operation of</p> <p>20 servers." I said "ownership and possession."</p> <p>21 Q Okay. What did you find regarding ownership</p> <p>22 and possession of servers?</p>
<p>26</p> <p>1 Q Are any of World Avenue's customers related</p> <p>2 corporate entities?</p> <p>3 MR. SAUNDERS: Object to the form to the</p> <p>4 extent it calls for a legal conclusion.</p> <p>5 MR. RING: All right. Let me go back.</p> <p>6 MR. SAUNDERS: And Counsel, I assume this is,</p> <p>7 as when we did the deposition for Mr. Wagner, while</p> <p>8 outside the scope of ESI, out of this agreement as when</p> <p>9 we drafted it, I believe the phrase you used last time</p> <p>10 was that there was a certain amount of foundational</p> <p>11 information. And this falls into that category?</p> <p>12 MR. RING: I'm actually going through the</p> <p>13 terms of the information that you have agreed to</p> <p>14 produce.</p> <p>15 But you're now specifically addressing what?</p> <p>16 Technical resources for customers?</p> <p>17 MR. SAUNDERS: No, when you asked the question</p> <p>18 about World Avenue's -- whether one of the customers --</p> <p>19 whether some of World Avenue USA's customers are --</p> <p>20 MR. RING: Related entities.</p> <p>21 MR. SAUNDERS: -- related entities?</p> <p>22 MR. RING: Yeah.</p>	<p>28</p> <p>1 A We received records from our Finance Group as</p> <p>2 to the ownership of the servers.</p> <p>3 Q Who's the Finance Group?</p> <p>4 A Just World Avenue USA's Finance Group.</p> <p>5 Q But within the corporation you have a finance</p> <p>6 group --</p> <p>7 A Yes.</p> <p>8 Q -- that's part of that entity, huh?</p> <p>9 A That's correct.</p> <p>10 Q And does World Avenue own servers?</p> <p>11 A Yes.</p> <p>12 Q How many?</p> <p>13 A Without -- I do not have a total that I keep.</p> <p>14 Q Who would have better knowledge of that?</p> <p>15 A I don't believe anybody would have any better</p> <p>16 knowledge. That's speculation. But I don't believe</p> <p>17 anybody would have better knowledge. I think that</p> <p>18 probably the Finance Group would be able to give you an</p> <p>19 exact number, but . . .</p> <p>20 Q Okay. What's your best estimate being in the</p> <p>21 IT area?</p> <p>22 A I don't have an estimate.</p>

<p>29</p> <p>1 Q Do you work with or in connection with the</p> <p>2 servers in your daily work?</p> <p>3 A Yes.</p> <p>4 Q What do you do on the servers or with the</p> <p>5 servers?</p> <p>6 A From my standpoint it is monitoring of the</p> <p>7 servers to ensure that they are up.</p> <p>8 Q How do you know which server you're working on</p> <p>9 at any particular time?</p> <p>10 A I -- can you repeat that question?</p> <p>11 Q Yeah. Are you able to distinguish one server</p> <p>12 from another?</p> <p>13 A Yes.</p> <p>14 Q How?</p> <p>15 A By host name.</p> <p>16 Q Is there a matching of one host name per</p> <p>17 server or some other arrangement?</p> <p>18 A In most cases, yes, the host name is the</p> <p>19 unique identifier for that server.</p> <p>20 Q Okay. Is there a list of host names kept</p> <p>21 somewhere?</p> <p>22 A Not to my knowledge.</p>	<p>31</p> <p>1 the servers of the company, right?</p> <p>2 A Yes.</p> <p>3 Q Okay. And you've been there since March of</p> <p>4 '07, right?</p> <p>5 A Yes.</p> <p>6 Q And there's a way to identify the servers.</p> <p>7 Each server has a host name for the most part, correct?</p> <p>8 A Yes.</p> <p>9 Q And you cannot tell us whether there are more</p> <p>10 or less than 100 servers?</p> <p>11 A I do not want to speculate.</p> <p>12 Q Do you know if there's more than 500 servers?</p> <p>13 A I do not want to speculate.</p> <p>14 Q Are the servers used by World Avenue divided</p> <p>15 into groups, in any sense of the word, for purposes of</p> <p>16 function or management?</p> <p>17 A Yes.</p> <p>18 Q How?</p> <p>19 A I can give you an example.</p> <p>20 Q Go ahead.</p> <p>21 A There are a group of servers that are</p> <p>22 controlled by IT.</p>
<p>30</p> <p>1 Q How many host names are there today?</p> <p>2 A Again, that would be the same as servers, and</p> <p>3 I do not have a count.</p> <p>4 Q Well, you would know within a hundred wouldn't</p> <p>5 you?</p> <p>6 A I do not want to speculate.</p> <p>7 Q All right. Do you know if it's more than a</p> <p>8 hundred currently?</p> <p>9 A Again, I do not want to speculate.</p> <p>10 Q Don't speculate, but if it were five, that</p> <p>11 would be easy, right? It's less than a hundred.</p> <p>12 A We can keep continue down this, but I do not</p> <p>13 want to speculate.</p> <p>14 Q I don't want you to speculate. You work with</p> <p>15 these servers every day, right?</p> <p>16 A Yes.</p> <p>17 Q And you understand that this tape and this</p> <p>18 transcript will be used for purposes of trial in this</p> <p>19 case if it goes to trial. This will be played to a</p> <p>20 jury and/or a judge, and they're going to evaluate you</p> <p>21 based on credibility.</p> <p>22 Now, you've told me that you work daily with</p>	<p>32</p> <p>1 Q That's the IT Department?</p> <p>2 A Yes.</p> <p>3 Q And that's the IT Department within World</p> <p>4 Avenue?</p> <p>5 A Yes.</p> <p>6 Q How many servers are in that group?</p> <p>7 A I do not want to speculate.</p> <p>8 Q Do you know? If you don't --</p> <p>9 A I don't know.</p> <p>10 Q You don't know.</p> <p>11 Do you know if it's more than a hundred?</p> <p>12 A I don't know.</p> <p>13 Q All right. What other groups are there?</p> <p>14 A There are other servers that are maintained by</p> <p>15 my group.</p> <p>16 Q That would be the security group?</p> <p>17 A Network and Security Group, yes.</p> <p>18 Q Okay. Where are they located, these servers</p> <p>19 controlled by security?</p> <p>20 A In Sunrise.</p> <p>21 Q Where in Sunrise? Sunrise is a town, right?</p> <p>22 A Yes.</p>

<p>37</p> <p>1 A I --</p> <p>2 Q You don't know.</p> <p>3 A Yeah.</p> <p>4 Q And you don't know how many servers are in</p> <p>5 that room.</p> <p>6 A No.</p> <p>7 Q You know that it's more than two, right?</p> <p>8 A I will give you that it is more than two, yes.</p> <p>9 Q Is it more than 20?</p> <p>10 A Yes, it is more than 20.</p> <p>11 Q Is it more than 50?</p> <p>12 A I can't speculate any further than that.</p> <p>13 Q Somewhere between 20 and 50 is a good</p> <p>14 estimate?</p> <p>15 A I wouldn't -- I would not say that.</p> <p>16 Q Each one has a separate host name, right?</p> <p>17 A Yes.</p> <p>18 Q One server, one physical box, one host name.</p> <p>19 Is that the way it works?</p> <p>20 A Not necessarily.</p> <p>21 Q Okay. What are the exceptions?</p> <p>22 A For some of the physical servers, as you</p>	<p>39</p> <p>1 A System administration servers.</p> <p>2 Q Where are they housed?</p> <p>3 A In Sunrise -- in the data center as well.</p> <p>4 Q Any other groups?</p> <p>5 A Database servers.</p> <p>6 Q And where are they housed?</p> <p>7 A In the same location.</p> <p>8 Q Any other groups?</p> <p>9 A Those are the main -- those are the main ones.</p> <p>10 Q So I have now four groups of servers that are</p> <p>11 owned by World Avenue. Am I correct in that</p> <p>12 understanding?</p> <p>13 A If you classify all the servers into groups,</p> <p>14 then yes.</p> <p>15 Q Okay. I'm just using the group designations</p> <p>16 you've given me.</p> <p>17 A Yes.</p> <p>18 Q I'd like to proceed with that unless you want</p> <p>19 to change it.</p> <p>20 A That's fine.</p> <p>21 Q Okay. How many servers are classified as</p> <p>22 system admin servers?</p>
<p>38</p> <p>1 called them, they can be virtualized.</p> <p>2 Q What does that mean, virtualized?</p> <p>3 A Virtualized for the sense that I'm speaking of</p> <p>4 now means that multiple servers virtually can be alive,</p> <p>5 if you will, on that physical chassis.</p> <p>6 Q Physical chassis sometimes called a box?</p> <p>7 A Server.</p> <p>8 Q You don't use the word "box" at all.</p> <p>9 A Yes, you can call it a box as well.</p> <p>10 Q I mean, a physical chassis is when I go home</p> <p>11 and I open my Dell PC, and if I pull the side panel</p> <p>12 off, I'm looking at the physical chassis. Is that it?</p> <p>13 A Actually, from a technical standpoint, if</p> <p>14 you're looking at the computer itself, you're looking</p> <p>15 at a chassis.</p> <p>16 Q That is what you mean by the chassis then.</p> <p>17 A Yes.</p> <p>18 Q The entire physical, rectangular, metal</p> <p>19 object.</p> <p>20 A Yes.</p> <p>21 Q What other groups of servers are there owned</p> <p>22 by World Avenue?</p>	<p>40</p> <p>1 A I do not have an exact number.</p> <p>2 Q Do you have an approximate number?</p> <p>3 A No.</p> <p>4 Q How many servers are classified as database</p> <p>5 servers?</p> <p>6 A Two.</p> <p>7 Q How do you know that?</p> <p>8 A As preparation for this deposition, we were</p> <p>9 required to produce documentation associated with the</p> <p>10 databases and database dictionaries.</p> <p>11 Q What's a database dictionary?</p> <p>12 A Different people can define it as different</p> <p>13 things. I personally believe that it has to do with</p> <p>14 the schema of the database.</p> <p>15 Q What experience do you have in managing or</p> <p>16 operating databases?</p> <p>17 A I do not manage or operate databases.</p> <p>18 Q I didn't ask you that.</p> <p>19 What experience do you have?</p> <p>20 A A little.</p> <p>21 Q How and where?</p> <p>22 A As part of tasks necessary from a networking</p>

<p>61</p> <p>1 MR. SAUNDERS: Excuse me.</p> <p>2 MR. RING: Are you objecting --</p> <p>3 MR. SAUNDERS: Yes.</p> <p>4 MR. RING: -- or is this a speech?</p> <p>5 MR. SAUNDERS: I'm objecting. The witness has</p> <p>6 asked that a prior answer to a question be read back.</p> <p>7 Are you declining to allow the reporter to read back</p> <p>8 that answer?</p> <p>9 MR. RING: I'm not declining anything. I</p> <p>10 haven't asked the reporter to read back the answer.</p> <p>11 I'm asking him a very simple question. I'd like him to</p> <p>12 answer it.</p> <p>13 MR. SAUNDERS: I made the objection.</p> <p>14 BY MR. RING:</p> <p>15 Q What did you mean by lead generation,</p> <p>16 Mr. Schlotter?</p> <p>17 MR. SAUNDERS: Objection; asked and answered.</p> <p>18 Go ahead and answer again.</p> <p>19 THE WITNESS: Again, I've already answered the</p> <p>20 question. I do not feel comfortable giving you another</p> <p>21 answer.</p> <p>22 BY MR. RING:</p>	<p>63</p> <p>1 Look at, if you would, back to Exhibit 2,</p> <p>2 paragraph 3 -- and we covered that. That was</p> <p>3 complaints and opt out requests. Let's go to the next</p> <p>4 page, page 8, paragraph 4.</p> <p>5 "Identification of all other lawsuits arising</p> <p>6 from alleged spam violations since</p> <p>7 1-1-04 . . ."</p> <p>8 Did you search for any of that information?</p> <p>9 A I have no knowledge of that.</p> <p>10 Q All right. And paragraph 5:</p> <p>11 "A redacted version of the form contracts</p> <p>12 entered into between '04 and '09 . . ."</p> <p>13 Were you involved in searching for or</p> <p>14 producing any of that information?</p> <p>15 A I was not involved in searching or producing</p> <p>16 any of that information.</p> <p>17 Q Okay. Now, you mentioned TheUseful as a</p> <p>18 sister company, and you mentioned that they share space</p> <p>19 in Suite 100. You've described for me a data center</p> <p>20 containing servers.</p> <p>21 I want to ask if any of the servers in that</p> <p>22 data center pertain to the business of TheUseful.</p>
<p>62</p> <p>1 Q Well, I didn't really ask you whether you felt</p> <p>2 comfortable about it. Can you give me the answer to</p> <p>3 the question what did you mean when you said "lead</p> <p>4 generation"?</p> <p>5 A I've already answered the question.</p> <p>6 Q Are you refusing to answer it again?</p> <p>7 A I have already answered the question.</p> <p>8 Q You're going to rely on your prior answer. Is</p> <p>9 that it?</p> <p>10 A I will stand on my prior answer.</p> <p>11 MR. RING: Okay. Let's find out what the</p> <p>12 prior answer was. Can you go back to his response?</p> <p>13 (Record was read by the reporter as follows:</p> <p>14 "Answer: It's collecting information about a</p> <p>15 user and then passing it off as a legitimate</p> <p>16 business opportunity for another company.")</p> <p>17 BY MR. RING:</p> <p>18 Q Is that the answer that you meant when you</p> <p>19 said you rely on your prior answer?</p> <p>20 A Yes.</p> <p>21 Q Thank you. And I apologize, because I didn't</p> <p>22 hear it as clearly as it comes out now. We're good.</p>	<p>64</p> <p>1 A What is your definition of "pertain".</p> <p>2 Q Do you have trouble with the word "pertain"?</p> <p>3 A I want clarification from you, if you can</p> <p>4 rephrase the question.</p> <p>5 Q Do they have -- do any of those servers have</p> <p>6 anything to do with the business of TheUseful?</p> <p>7 MR. SAUNDERS: I'm going to object to the form</p> <p>8 of the question.</p> <p>9 Go ahead and answer it if you can.</p> <p>10 THE WITNESS: I feel that the question --</p> <p>11 could you specify a little more? I think it's overly</p> <p>12 broad as far as "anything to do with," the word</p> <p>13 "anything." I'm sorry.</p> <p>14 BY MR. RING:</p> <p>15 Q You don't understand the word "anything"?</p> <p>16 A I understand the word "anything."</p> <p>17 Q I meant it broadly.</p> <p>18 A Okay.</p> <p>19 Q I meant it as broadly as you can conceive it.</p> <p>20 A So can you repeat your question then?</p> <p>21 Q Sure. Do any of the servers in the data</p> <p>22 center that you've described in Suite 100 have anything</p>

<p style="text-align: right;">65</p> <p>1 to do with the business of TheUseful?</p> <p>2 MR. SAUNDERS: Again, objection as to form.</p> <p>3 Go ahead and answer.</p> <p>4 THE WITNESS: To my knowledge the servers that</p> <p>5 I've described within that data center have nothing to</p> <p>6 do with the business of TheUseful.</p> <p>7 BY MR. RING:</p> <p>8 Q What services does World Avenue provide for</p> <p>9 TheUseful?</p> <p>10 A Technology services.</p> <p>11 Q Can you be more specific?</p> <p>12 A Monitoring and maintaining of servers for</p> <p>13 TheUseful.</p> <p>14 Q What servers?</p> <p>15 A Web servers, database servers, administrative</p> <p>16 servers.</p> <p>17 Q Where are those servers located?</p> <p>18 A The servers are located in FiberMedia.</p> <p>19 Q What is FiberMedia?</p> <p>20 A FiberMedia is a data center in Miami, Florida.</p> <p>21 Q What, if anything, do the servers located in</p> <p>22 Suite 100 have to do with monitoring the servers of</p>	<p style="text-align: right;">67</p> <p>1 the services of World Avenue for TheUseful.</p> <p>2 Q How do you know that?</p> <p>3 A Because I work for World Avenue USA.</p> <p>4 Q How do you know which server monitors the</p> <p>5 servers that are involved with TheUseful?</p> <p>6 A That's the function of that server.</p> <p>7 Q How do you know that?</p> <p>8 A That is -- that's what the server was built to</p> <p>9 do.</p> <p>10 Q And how do you know that?</p> <p>11 A That was its function.</p> <p>12 Q Did you create the server?</p> <p>13 A No.</p> <p>14 Q Do you work with it on a frequent daily basis</p> <p>15 or a weekly basis?</p> <p>16 MR. SAUNDERS: Objection to form. It's</p> <p>17 compound.</p> <p>18 Go ahead and answer.</p> <p>19 THE WITNESS: Can you repeat the question?</p> <p>20 BY MR. RING:</p> <p>21 Q Yeah. What is the basis for your knowledge</p> <p>22 about what that server does?</p>
<p style="text-align: right;">66</p> <p>1 TheUseful?</p> <p>2 A Some servers in Suite 100 monitor processes on</p> <p>3 servers that are in FiberMedia.</p> <p>4 Q What processes?</p> <p>5 A Web services, database services, general</p> <p>6 health of the server.</p> <p>7 Q What do you mean by general health of the</p> <p>8 server?</p> <p>9 A CPU average, memory utilization, disk -- how</p> <p>10 full the disk is.</p> <p>11 Q What, if any, logs or records are created in</p> <p>12 connection with the monitoring of the servers that are</p> <p>13 located in FiberMedia by the servers of World Avenue?</p> <p>14 A I don't believe I'm aware of all the logs that</p> <p>15 could be created from that. However, an example would</p> <p>16 be alerts that are generated are logged.</p> <p>17 Q Where are they logged?</p> <p>18 A To the server, to the monitoring server</p> <p>19 itself.</p> <p>20 Q What do you mean by monitoring server?</p> <p>21 A There is a server that is responsible for</p> <p>22 monitoring the web -- all the servers that are under</p>	<p style="text-align: right;">68</p> <p>1 A I have logged into that server before, and I</p> <p>2 receive alerts from that server.</p> <p>3 Q How do you log into it?</p> <p>4 A Via credentials.</p> <p>5 Q Such as password, user name?</p> <p>6 A Such as user name and password.</p> <p>7 Q Are there different levels of security within</p> <p>8 World Avenue?</p> <p>9 MR. SAUNDERS: Objection as to form.</p> <p>10 Go ahead and answer if you can.</p> <p>11 THE WITNESS: Different levels of security?</p> <p>12 Can --</p> <p>13 BY MR. RING:</p> <p>14 Q Who's allowed to log into the server you've</p> <p>15 just described? You and who else?</p> <p>16 A The System Administration Team.</p> <p>17 Q How many people are on that team?</p> <p>18 A I don't have an accurate number.</p> <p>19 Q More than a hundred?</p> <p>20 A No.</p> <p>21 Q More than 10?</p> <p>22 A No.</p>

<p>69</p> <p>1 Q More than five?</p> <p>2 A I don't know. I don't know. When you get</p> <p>3 below 10, I do not know.</p> <p>4 Q Do you know the names of those people?</p> <p>5 A I know some names of those people, yes.</p> <p>6 Q You work with them on a daily basis, right?</p> <p>7 A Yes.</p> <p>8 Q You know some of their names.</p> <p>9 A Yes.</p> <p>10 Q Are they all located at Sunrise in Suite 100?</p> <p>11 A Yes.</p> <p>12 Q It's not like some are in Hong Kong and some</p> <p>13 are in Juno. They're all right there in the same</p> <p>14 suite?</p> <p>15 A Can I just say that yes, I know the names of</p> <p>16 the System Administration Team for World Avenue USA.</p> <p>17 Q Okay. What are their names? And why was that</p> <p>18 so difficult? I don't understand. What are their</p> <p>19 names?</p> <p>20 MR. SAUNDERS: Objection. You're arguing with</p> <p>21 the witness.</p> <p>22 BY MR. RING:</p>	<p>71</p> <p>1 this team.</p> <p>2 MR. SAUNDERS: Then ask the question.</p> <p>3 BY MR. RING:</p> <p>4 Q That's my question. Is it one person?</p> <p>5 A To my knowledge, that is the only World Avenue</p> <p>6 USA employee that I know is on the System</p> <p>7 Administration Team.</p> <p>8 Q All right. When you said "System</p> <p>9 Administration Team" a few minutes ago, what did you</p> <p>10 mean? Did you mean one person or more than one?</p> <p>11 A I meant the System Administration Team as a</p> <p>12 function, not as a number of people.</p> <p>13 Q Okay. Regardless of whether they are World</p> <p>14 Avenue employees or not, I'd like to know the names of</p> <p>15 all the people who are on the System Administration</p> <p>16 Team that you referred to a minute ago.</p> <p>17 Whether they're contractors, employees from</p> <p>18 some other entity or whatever, who's on the team?</p> <p>19 A Bryan Stevens.</p> <p>20 Q Is he an employee of somewhere?</p> <p>21 A He is an employee of somewhere.</p> <p>22 Q Okay. Who's his employer?</p>
<p>70</p> <p>1 Q Okay. What are their names?</p> <p>2 MR. SAUNDERS: You can disregard the side</p> <p>3 comments.</p> <p>4 Go ahead and answer the question.</p> <p>5 THE WITNESS: Kelly Fallon.</p> <p>6 BY MR. RING:</p> <p>7 Q F-a-l-l-o-n?</p> <p>8 A F-a-l-l-o-n. That's the system</p> <p>9 administration -- that's who I know that is a system</p> <p>10 administrator for World Avenue USA.</p> <p>11 Q Let's see if I understand. I asked you a</p> <p>12 minute ago how many people are on the team.</p> <p>13 A Yes.</p> <p>14 Q And you said you didn't know how many there</p> <p>15 were.</p> <p>16 A Correct.</p> <p>17 Q So there must be a lot. But now you're</p> <p>18 telling me there's one?</p> <p>19 MR. SAUNDERS: Objection as to form. You're</p> <p>20 arguing with the witness.</p> <p>21 BY MR. RING:</p> <p>22 Q I want to know if there's only one person on</p>	<p>72</p> <p>1 A It's my understanding that his employer is</p> <p>2 TheUseful.</p> <p>3 Q Okay. Who else is on the team?</p> <p>4 A I believe --</p> <p>5 MR. SAUNDERS: Okay. Now, are you asking</p> <p>6 him -- you're now asking him to talk about people who</p> <p>7 work for TheUseful?</p> <p>8 MR. RING: You're asking me to clarify the</p> <p>9 question?</p> <p>10 MR. SAUNDERS: Yeah.</p> <p>11 BY MR. RING:</p> <p>12 Q My question is, when he used the phrase</p> <p>13 "System Administration Team," what did he mean and who</p> <p>14 are the people on that team. I don't care who they're</p> <p>15 employed by. Just who's on the team.</p> <p>16 A It's my understanding that also --</p> <p>17 MR. SAUNDERS: You can go ahead -- go ahead</p> <p>18 and answer this part of it.</p> <p>19 THE WITNESS: Qui McDivitt.</p> <p>20 BY MR. RING:</p> <p>21 Q Q-u-e?</p> <p>22 A I believe it's Q-u-i. I'm not really sure.</p>

<p style="text-align: right;">73</p> <p>1 Q McDivitt, M-c capital D --</p> <p>2 A Yes.</p> <p>3 Q -- i-v-o-t-t or --</p> <p>4 A I'm not sure of the spelling of his last name,</p> <p>5 so ...</p> <p>6 Q Okay. We'll get it.</p> <p>7 Anybody else on that team?</p> <p>8 A Those are the three members, to my knowledge,</p> <p>9 of the System Administration Team.</p> <p>10 Q And what does the System Administration Team</p> <p>11 do?</p> <p>12 A System Administration Team manages and</p> <p>13 monitors Linux servers.</p> <p>14 Q Linux servers that do what?</p> <p>15 A Any number of functions.</p> <p>16 Q Such as?</p> <p>17 A Serve web pages.</p> <p>18 Q For whom?</p> <p>19 A Multiple customers.</p> <p>20 Q Do they do it for TheUseful in part?</p> <p>21 A TheUseful is one of the customers, yes.</p> <p>22 Q Who are the other customers?</p>	<p style="text-align: right;">75</p> <p>1 Q When you said that the System Administration</p> <p>2 Team manages and monitors Linux servers, tell me what</p> <p>3 the other functions are besides serving web pages.</p> <p>4 A Can you repeat your question, please?</p> <p>5 Q Yeah. What other services besides serving web</p> <p>6 pages do those Linux servers provide?</p> <p>7 A Different servers provide different services</p> <p>8 obviously. Another service that a Linux server could</p> <p>9 provide would be a database server.</p> <p>10 Q Are any of the databases served by the</p> <p>11 database servers you're referring to related in any way</p> <p>12 to TheUseful?</p> <p>13 MR. SAUNDERS: Object to the form of the</p> <p>14 question.</p> <p>15 Go ahead and answer if you can.</p> <p>16 THE WITNESS: Could you repeat the question,</p> <p>17 please?</p> <p>18 BY MR. RING:</p> <p>19 Q Sure. Do the database servers provide service</p> <p>20 for TheUseful?</p> <p>21 MR. SAUNDERS: Same objection.</p> <p>22 Go ahead and answer.</p>
<p style="text-align: right;">74</p> <p>1 A There are multiple customers. World Avenue</p> <p>2 USA is also a customer that is, you know, by definition</p> <p>3 having a web server that is managed and monitored by</p> <p>4 the System Administration Team.</p> <p>5 Q And when you said that they manage and monitor</p> <p>6 Linux servers that serve web pages to multiple</p> <p>7 customers, who are the multiple customers in addition</p> <p>8 to TheUseful and World Avenue?</p> <p>9 A You just said, "Serve web pages to multiple</p> <p>10 customers."</p> <p>11 Q Okay. Who are the multiple customers?</p> <p>12 A Anybody that comes to the website and the</p> <p>13 purpose of trying to receive, you know, information, I</p> <p>14 guess you could say is a customer of a website.</p> <p>15 Q Are any of the -- well, let's stay with</p> <p>16 customers at the level of TheUseful and World Avenue.</p> <p>17 MR. SAUNDERS: Hold on. Actually, why don't</p> <p>18 we stay at customer -- let's not make it compound.</p> <p>19 MR. RING: All right. Let's withdraw the</p> <p>20 question. I'm going to clarify this.</p> <p>21 MR. SAUNDERS: Thank you.</p> <p>22 BY MR. RING:</p>	<p style="text-align: right;">76</p> <p>1 THE WITNESS: What's your definition of</p> <p>2 service, provide service? You're using the word</p> <p>3 "server service"?</p> <p>4 BY MR. RING:</p> <p>5 Q Yeah, I think you used that word.</p> <p>6 A Yes.</p> <p>7 Q So what's your definition of service?</p> <p>8 A Services is what I used. And a service is --</p> <p>9 Q All right. What did you mean by services?</p> <p>10 A A service is a specific port -- in my</p> <p>11 definition of service is a specific port that is</p> <p>12 listening to take in traffic. So, for instance, HTTP</p> <p>13 is a service that runs on a server. So that's my</p> <p>14 definition.</p> <p>15 Q Okay. What do you mean by traffic?</p> <p>16 A TCP connections for -- specific of HTTP, I</p> <p>17 will go into that as an example, traffic being specific</p> <p>18 communication back and forth to whatever port the HTTP</p> <p>19 service is running on.</p> <p>20 Q Okay. Did you use the phrase "HTTP service"?</p> <p>21 A Yes.</p> <p>22 Q What does HTTP mean?</p>

<p>77</p> <p>1 A Hypertext transfer protocol.</p> <p>2 Q Okay. and you're talking about a Linux -- one</p> <p>3 or more Linux servers that are managed by the System</p> <p>4 Admin Team, right?</p> <p>5 A Can you repeat that, please?</p> <p>6 Q Yeah. You've described for me the System</p> <p>7 Administration Team.</p> <p>8 A Yes.</p> <p>9 Q And you've indicated that it manages and</p> <p>10 monitors certain Linux servers.</p> <p>11 A Correct.</p> <p>12 Q And those servers provide a number of</p> <p>13 services, correct?</p> <p>14 A Yes.</p> <p>15 Q One of those services is HTTP service,</p> <p>16 correct?</p> <p>17 A Correct.</p> <p>18 Q My question is, do those Linux servers provide</p> <p>19 that HTTP service for TheUseful?</p> <p>20 A Yes.</p> <p>21 Q How?</p> <p>22 MR. SAUNDERS: Okay. Now let me object to the</p>	<p>79</p> <p>1 served?</p> <p>2 A That is normally what an HTTP service does.</p> <p>3 Q Okay. How many servers -- now, are we talking</p> <p>4 about a server that is owned by World Avenue when we're</p> <p>5 talking about this Linux server that's providing HTTP</p> <p>6 service?</p> <p>7 A Can you specify what server you're talking</p> <p>8 about?</p> <p>9 Q I'm trying to stay with the one you were</p> <p>10 talking about. You described the System Administration</p> <p>11 Team administers some servers. Among those servers are</p> <p>12 the Linux servers that provides HTTP service. And now</p> <p>13 we know some of that HTTP service is provided for</p> <p>14 TheUseful. Are we on the same page?</p> <p>15 A Yes.</p> <p>16 Q Okay. Where are the Linux servers located</p> <p>17 that we're talking about here?</p> <p>18 A As I said before, those servers are located in</p> <p>19 FiberMedia.</p> <p>20 Q In FiberMedia.</p> <p>21 A Yes.</p> <p>22 Q What servers at Suite 100 in Sunrise</p>
<p>78</p> <p>1 question. We're here for an ESI deposition of World</p> <p>2 Avenue USA, not TheUseful. And at this point I don't</p> <p>3 think you have any foundation for linking going into a</p> <p>4 discussion about services that these servers are</p> <p>5 providing for TheUseful back to what this witness is</p> <p>6 here to talk about.</p> <p>7 MR. RING: Are you instructing him not to</p> <p>8 answer?</p> <p>9 MR. SAUNDERS: I'm objecting to the form of</p> <p>10 the question.</p> <p>11 MR. RING: Okay. Let him answer then.</p> <p>12 Q Could you answer my question?</p> <p>13 A Could you repeat it please?</p> <p>14 Q Yeah. What HTTP services do the Linux servers</p> <p>15 provide for TheUseful?</p> <p>16 A Web pages.</p> <p>17 Q What web pages?</p> <p>18 A I'm not privy to all the content, so I do not</p> <p>19 feel comfortable answering that question. That</p> <p>20 question would be better answered by a representative</p> <p>21 from TheUseful.</p> <p>22 Q Okay. And how do you know that web pages are</p>	<p>80</p> <p>1 communicate with servers at FiberMedia?</p> <p>2 A Could you be a little more specific as what</p> <p>3 you mean by communicate?</p> <p>4 Q What part of the word "communicate" are you</p> <p>5 having trouble with?</p> <p>6 A There's lots of different definitions of</p> <p>7 communicate. I wanted to understand what you were</p> <p>8 going for so I could better answer the question.</p> <p>9 Q All right. Let's go back to something you</p> <p>10 said.</p> <p>11 A Okay.</p> <p>12 Q You told me that servers owned by World Avenue</p> <p>13 monitor servers located at FiberMedia in Miami,</p> <p>14 Florida.</p> <p>15 A Correct.</p> <p>16 Q All right. How do they monitor those servers?</p> <p>17 A I believe, as I said before, it was to -- for</p> <p>18 health purposes, for monitoring whether a service is up</p> <p>19 or down, that general health of the server.</p> <p>20 Q Okay. I want to know where the location of</p> <p>21 all servers that provide HTTP service for TheUseful are</p> <p>22 located. Do you know that answer?</p>

<p>85</p> <p>1 to get into the cage, cage being where the equipment is 2 kept. 3 Q Where is that cage located that you're not 4 referring to? 5 A In FiberMedia. 6 Q At Miami? 7 A In Miami, yes. 8 Q And who needed access to that cage? 9 A Different employees have needed access from 10 time to time. 11 Q Employees of who? 12 A Well, both World Avenue USA and TheUseful. 13 Q Why do those employees have need to access the 14 cage? 15 A To manage the equipment -- to better manage 16 the equipment. 17 Q What service does FiberMedia provide? 18 A FiberMedia provides -- to my knowledge, 19 FiberMedia is a contract with the TheUseful. So I 20 think a Useful employee would be better to answer that 21 question. 22 Q How many Useful employees are there?</p>	<p>87</p> <p>1 A Servers for TheUseful. 2 Q Do you know why TheUseful has servers in the 3 cage that's maintained by FiberMedia? 4 A No, I do not. 5 Q Is the cage part of a data center? 6 A Like I said, I think TheUseful person would be 7 better to answer that. 8 Q Have you ever been to Fiber Media's premises? 9 A Yes. 10 Q How many times? 11 A I wouldn't care to speculate. 12 Q More than five? 13 A I don't know, no, I really don't. I really 14 don't know if it's more than five or not. 15 Q Okay. And what did you see when you went to 16 their premises? 17 A Lots of -- I saw a reception desk, I saw an 18 elevator, I saw the inside of the building. You want 19 me to keep going? 20 Q Yeah, keep going until you get to computers. 21 A I saw the actual cage where the computers are 22 kept, as you called them, and the servers and</p>
<p>86</p> <p>1 A I do not have a number on that. 2 Q Do they have offices anywhere besides 3 Suite 100 in Sunrise? 4 A I don't have that information. I'm sorry. 5 Q Does World Avenue have a contract with 6 FiberMedia as well? 7 A I do not believe so. 8 Q So as I understand it, World Avenue provides 9 services for TheUseful that entail World Avenue's 10 communication with FiberMedia. Is that fair to say? 11 MR. SAUNDERS: I object to the form of the 12 question. 13 Go ahead and answer it. 14 THE WITNESS: Can you repeat it one more time? 15 BY MR. RING: 16 Q Sure. In providing services for TheUseful it 17 becomes necessary on occasion for World Avenue to 18 communicate with FiberMedia. 19 A Yes. 20 Q What services -- well, the cage you refer to 21 in Miami, what's in that cage, the best of your 22 understanding?</p>	<p>88</p> <p>1 networking equipment that is inside that cage. 2 Q How many servers did you see in the cage? 3 A I don't have an accurate count. 4 Q How big was the cage? 5 A I believe it's more than a hundred square 6 feet. 7 Q Was there more than one cage on the premises 8 of FiberMedia? 9 A Yes. 10 Q How many cages were there? 11 A I can't recall how many cages. 12 Q Did you see more than one cage? 13 A Yes. 14 Q And were there more than five cages that you 15 saw? 16 A I don't know how it's segregated, and it's -- 17 I mean, it's a cage, it's a fence, so it's kind of hard 18 to tell how many there are. 19 Q And why did you go there? 20 A To -- as an example of an occasion why I was 21 going is there was to check on one of the network 22 devices that we manage for TheUseful.</p>

<p style="text-align: right;">93</p> <p>1 Q Look at the line 2 on the same page where it 2 says "ARCHIVE SERVER-IBM 300 GB HOT-SWAP." 3 Do you know what that means? 4 A Yes. 5 Q What? 6 A The extended description? 7 Q Yeah, go ahead and tell me what it means in 8 plain English for all to understand. 9 A Sure. It's a 300 gigabyte hot-swappable hard 10 drive for a computer. 11 Q Do you know where that is located? 12 A In Miami. 13 Q How do you know that? 14 A It's what it says on the spreadsheet. 15 Q Where are you -- 16 A It's the very next page. When you guys put 17 this document together, I guess when it printed out it 18 printed out with columns running across two pages. 19 Q So the spreadsheet is wider than a 20 landscape-mode 11-inch page, so it spills onto the 21 second page with columns E through J, correct? 22 A That is correct.</p>	<p style="text-align: right;">95</p> <p>1 A Okay. 2 Q It's listed as being in Miami, and I ask you, 3 if you know, whose asset is it? 4 A It's World Avenue USA's. 5 Q But it's located in Miami. 6 A Yes. 7 Q Where in Miami? 8 A In the FiberMedia data center. 9 Q What assets does -- what assets related to 10 electronically stored information does World Avenue 11 have at the FiberMedia facility in Miami? 12 A I believe it's all of these assets that are 13 listed here as being in Miami. 14 Q Are any of the assets listed in this Exhibit 3 15 servers? 16 A Yes. 17 Q Tell me which ones. 18 A Oh, wow. We can start from the top I guess. 19 So line 5 appears to be a server. Line -- 20 Q And you can tell simply by the word "server" 21 that appears in the title, is that right, or not? 22 A No, I'm looking at the full description of it</p>
<p style="text-align: right;">94</p> <p>1 Q So we follow those columns, and the label for 2 Column E is "Structure ID," F is "Physical Location 3 ID," G is "Location ID," correct? 4 A Yes. 5 Q And you looked at Column G and found Miami, 6 right? 7 A Yes. 8 Q All right. To be complete here, H is 9 "Manufacturer Name," I is "Serial Number," and J is 10 "Model Number"; am I correct? 11 A Yes. 12 Q Can you go down this list and identify -- 13 well, first of all, let's stay with that first server 14 in Miami. Who's asset is that? 15 A The first item that you're talking about is 16 not a server, so your question was incorrect. 17 Q Excuse me. The ARCHIVE SERVER-IBM 300 GB 18 HOT-SWAP, that's not a server? 19 A That is a hard drive. 20 Q Okay. It's listed as -- 21 A There are 14 of them. 22 Q I understand.</p>	<p style="text-align: right;">96</p> <p>1 and the fact that it has a serial number. That's 2 normally a pretty good indication that it is a server. 3 Q You're seeing a serial number in Column J? 4 A Yes. In the Column I actually. 5 Q Column I, Serial Number, okay. 6 A Yep. 7 Q So line 5 we see a serial number KQWPF1; am I 8 correct? 9 A That is correct. 10 Q All right. How many other servers are there? 11 I'm assuming that 5, 6, 7 and 8 are all servers; is 12 that correct? 13 A It appears that that is the case, yes. 14 Q Are there any others? 15 A I can't be a hundred percent sure. Are you 16 asking me to assume? 17 Q No, I'm asking based on your years of 18 experience and your time working at World Avenue and 19 your familiarity with the hardware that they own and 20 use whether you can tell me -- because I don't have 21 that knowledge -- how many other servers are in 22 Exhibit 3.</p>

<p style="text-align: right;">113</p> <p>1 A For what number? I'm sorry.</p> <p>2 Q For line 99?</p> <p>3 A 99? Yeah, it is Sunrise, yes.</p> <p>4 Q When it says "Sunrise," does that mean</p> <p>5 Suite 100?</p> <p>6 A Yes.</p> <p>7 Q There's no other -- there's no second location</p> <p>8 in Sunrise where these servers might be located.</p> <p>9 A Not to my knowledge. If there is, we've got</p> <p>10 problems.</p> <p>11 Q So we're now looking at numbers 100 and up,</p> <p>12 right?</p> <p>13 A Yes.</p> <p>14 No. 112 is a server. Technically it is a</p> <p>15 server, even though it's a large desktop.</p> <p>16 Q Okay.</p> <p>17 A 116 through 120 appear to be two servers. 124</p> <p>18 and 125 are servers. Again, I think that we can</p> <p>19 consider the MiniTower a server. That's 126.</p> <p>20 Q Um-hm. I see that. What else? How about</p> <p>21 132?</p> <p>22 A 132 appears to be a switch, from the extended</p>	<p style="text-align: right;">115</p> <p>1 A Maybe not. I've been gone for a couple days.</p> <p>2 Q Okay. So things change while you're away I</p> <p>3 take it, right?</p> <p>4 A Absolutely.</p> <p>5 Q So there is a separate list, I understand, of</p> <p>6 the servers that are managed and maintained by World</p> <p>7 Avenue that would supplement this.</p> <p>8 A I would -- I do not have direct knowledge of a</p> <p>9 list that exists of all servers that are monitored and</p> <p>10 maintained by World Avenue.</p> <p>11 Q What records would show that?</p> <p>12 A I have no idea to be honest.</p> <p>13 MR. RING: We have five minutes left on this</p> <p>14 tape. Let me inquire as to the time. I turned my cell</p> <p>15 phone off.</p> <p>16 THE REPORTER: 12:24.</p> <p>17 MR. RING: Why don't we break for lunch now if</p> <p>18 that's good for everybody, and come back in</p> <p>19 56-1/2 minutes.</p> <p>20 MR. SAUNDERS: That's fine.</p> <p>21 THE VIDEOGRAPHER: This marks the end of</p> <p>22 Videotape No. 1 in the deposition of Chadd Schlotter.</p>
<p style="text-align: right;">114</p> <p>1 description.</p> <p>2 Q Okay. So now we're looking at 133 and up,</p> <p>3 right?</p> <p>4 A Yes.</p> <p>5 Q Final page.</p> <p>6 A I'd say that from that list 142 through 146</p> <p>7 are servers, and 150.</p> <p>8 Q Does this list help refresh your recollection</p> <p>9 as to how many servers World Avenue manages and</p> <p>10 maintains?</p> <p>11 A No.</p> <p>12 Q Why?</p> <p>13 A Because this isn't an all-encompassing list of</p> <p>14 all servers that World Avenue USA monitors and</p> <p>15 maintains.</p> <p>16 Q What others are there?</p> <p>17 A Customers have their own servers that are not</p> <p>18 included on this list.</p> <p>19 Q Does this list include all servers that are</p> <p>20 owned by World Avenue?</p> <p>21 A To the best of my knowledge, yes.</p> <p>22 Q And it's accurate as of today?</p>	<p style="text-align: right;">116</p> <p>1 The time is now 12:25 p.m.</p> <p>2 (Lunch recess taken.)</p> <p>3 (Mr. Wagner is not present.)</p> <p>4 THE VIDEOGRAPHER: We're back on the record.</p> <p>5 Here marks the beginning of Videotape No. 2 in the</p> <p>6 deposition of Chadd Schlotter. The time is now</p> <p>7 1:38 p.m.</p> <p>8 (Whereupon, Plaintiff's Exhibit 4 was marked</p> <p>9 for identification and attached to the transcript.)</p> <p>10 MR. RING: Mr. Schlotter, I'm handing you</p> <p>11 what's been marked as Deposition Exhibit No. 4 which,</p> <p>12 I'll describe a letter dated February 17, 2010 from</p> <p>13 Michael Rothman to Sanford Saunders.</p> <p>14 Q And I'll ask if you've ever seen it before.</p> <p>15 A I do not believe I've ever seen this before.</p> <p>16 MR. RING: Okay. Let's go to the next one.</p> <p>17 (Whereupon, Plaintiff's Exhibit 5 was marked</p> <p>18 for identification and attached to the transcript.)</p> <p>19 BY MR. RING:</p> <p>20 Q Handing you Exhibit 5, and I'll ask you if</p> <p>21 you've ever seen it before. I'll describe for the</p> <p>22 record this is a letter dated February 17, 2010 from</p>

<p style="text-align: right;">121</p> <p>1 MR. RING: I disagree. The scope of the ESI</p> <p>2 deposition is defined in the notice of deposition. It</p> <p>3 clearly embraces this document.</p> <p>4 MR. SAUNDERS: How?</p> <p>5 MR. RING: This is electronically stored</p> <p>6 information that you produced. You've said so, and it</p> <p>7 says so in your letter, Exhibit 5. It says:</p> <p>8 "In fact, World Avenue has produced 289 pages</p> <p>9 of documents. I refer you to the following</p> <p>10 documents bearing the WAUSA prefix:</p> <p>11 1124-1233, 6509-6671 . . ."</p> <p>12 Et cetera. And we're now on 6509 et sequence.</p> <p>13 MR. SAUNDERS: Right, no, that's right. We</p> <p>14 produced this --</p> <p>15 MR. RING: But you don't want me to ask</p> <p>16 questions about it?</p> <p>17 MR. SAUNDERS: Well, I'm trying -- the</p> <p>18 deposition and what this witness is noticed for is</p> <p>19 about electronically stored information. What does</p> <p>20 that have to do with an advertising agreement and which</p> <p>21 company uses it?</p> <p>22 MR. RING: It has a lot to do with it. This</p>	<p style="text-align: right;">123</p> <p>1 A As it is a blank master advertising agreement,</p> <p>2 I have no way of giving you a company that it applies</p> <p>3 to.</p> <p>4 Q Which entities have used this agreement to</p> <p>5 your knowledge?</p> <p>6 A As an employee of World Avenue USA, having no</p> <p>7 knowledge that World Avenue USA participates in any</p> <p>8 advertising, I cannot speculate as to any other company</p> <p>9 that would have used this document.</p> <p>10 Q Who would have better knowledge of that fact?</p> <p>11 A Probably another company that actually is in</p> <p>12 advertising.</p> <p>13 Q Looking at this agreement that you produced --</p> <p>14 and I'm looking at paragraph 1 on page 6509,</p> <p>15 subparagraph (a), "Payable Unit," it says, "Any act of</p> <p>16 Company . . .," capital C "Company."</p> <p>17 What is meant by the word "company," if you</p> <p>18 know?</p> <p>19 A If --</p> <p>20 MR. SAUNDERS: I'm going to object. I'm going</p> <p>21 to object to the form of the question.</p> <p>22 Go ahead and answer.</p>
<p style="text-align: right;">122</p> <p>1 is apparently, according to you, electronically stored</p> <p>2 information. I want to know, if it's got WAUSA's name</p> <p>3 on it, and the witness says it doesn't apply to WAUSA,</p> <p>4 who does it apply to?</p> <p>5 MR. SAUNDERS: Well, the WAUSA is on it</p> <p>6 because World Avenue agreed with you in negotiations to</p> <p>7 produce certain information pursuant to --</p> <p>8 MR. RING: Are you instructing him not to</p> <p>9 answer?</p> <p>10 MR. SAUNDERS: No, I'm answering your question</p> <p>11 first.</p> <p>12 MR. RING: well, we don't need to debate this</p> <p>13 on the record. You briefed it and I briefed it. We</p> <p>14 can submit those to the Court with a motion. Either he</p> <p>15 answers it or you instruct him not to answer.</p> <p>16 MR. SAUNDERS: You can go ahead and answer</p> <p>17 this question.</p> <p>18 THE WITNESS: Okay. Can you re-ask your</p> <p>19 question?</p> <p>20 BY MR. RING:</p> <p>21 Q Which entity or entities does this agreement</p> <p>22 apply to?</p>	<p style="text-align: right;">124</p> <p>1 THE WITNESS: If I'm going to speculate, I</p> <p>2 would assume that capital C for company is used so it's</p> <p>3 more simply -- so this blank document that can be used</p> <p>4 as a template -- that's what it looks like, I mean,</p> <p>5 from reading through, and from reading through here</p> <p>6 there's no specific company called out -- I think by</p> <p>7 saying capital C "Company," it makes it a lot easier</p> <p>8 for a company that would actually use this to go in and</p> <p>9 fill in their name.</p> <p>10 And so you can do a search and replace in</p> <p>11 any -- you know most systems that would be -- or most</p> <p>12 software that would be used to edit a document like</p> <p>13 this, you could do a search and replace for the word</p> <p>14 capital C "Company," and you would be able to put in</p> <p>15 your company name fairly easily instead of having to go</p> <p>16 through the entire document and look for each instance</p> <p>17 of the word "company" and enter it in manually. That</p> <p>18 would take quite a bit of time.</p> <p>19 BY MR. RING:</p> <p>20 Q Okay. You've just given me a seminar on how</p> <p>21 to do a search and replace, which isn't what I asked</p> <p>22 you. I asked you which companies have used this</p>

<p style="text-align: right;">125</p> <p>1 agreement.</p> <p>2 A And I explained to you -- no, I'm sorry --</p> <p>3 Q By name, if you know.</p> <p>4 A --- that was not your question. Your question</p> <p>5 was what does capital C "Company" mean. That was your</p> <p>6 question.</p> <p>7 Q What companies, to the best of your knowledge,</p> <p>8 within the -- what companies, to the best of your</p> <p>9 knowledge, have used this contract?</p> <p>10 A I don't work for any of the companies, so I</p> <p>11 would not speculate as the use of this document for any</p> <p>12 other company.</p> <p>13 Q Has World Avenue used it?</p> <p>14 A It is my understanding that World Avenue has</p> <p>15 never used a master advertising agreement.</p> <p>16 Q What ESI exists that shows any use that has</p> <p>17 been made of this master advertising agreement?</p> <p>18 A Since World Avenue USA doesn't use this</p> <p>19 agreement, then I would say none exists.</p> <p>20 Q I'm not limiting my question to what may be in</p> <p>21 the possession of you personally or people under your</p> <p>22 direction.</p>	<p style="text-align: right;">127</p> <p>1 Q Okay. Who -- what witness will be testifying</p> <p>2 in this deposition or any continuance or continuation</p> <p>3 of this deposition, as to the identities of the</p> <p>4 companies that have used this agreement and what ESI</p> <p>5 exists to show that usage? Do you know?</p> <p>6 A I have no way of giving you that information.</p> <p>7 MR. RING: Can I have a representation from</p> <p>8 counsel? Is there a witness forthcoming on this?</p> <p>9 MR. SAUNDERS: As to which one has used this?</p> <p>10 I'd say no, because we didn't agree to that as part of</p> <p>11 the ESI deposition.</p> <p>12 Now, if you want to go talk about who else can</p> <p>13 answer that question for purposes of a merits</p> <p>14 deposition, sure.</p> <p>15 But for an ESI deposition of something you</p> <p>16 know that we discussed and negotiated why this</p> <p>17 agreement was produced in this form, and now acting as</p> <p>18 if it's some sort of surprise to you --</p> <p>19 MR. RING: We disagree. We disagree. We've</p> <p>20 briefed our positions. We're not going to win in a</p> <p>21 debate here.</p> <p>22 MR. SAUNDERS: No, I'm talking about something</p>
<p style="text-align: right;">126</p> <p>1 A Okay.</p> <p>2 Q I'm including in the scope of the question any</p> <p>3 data that you know exists that would show what ESI</p> <p>4 exists to tell us what entities have used this</p> <p>5 agreement.</p> <p>6 MR. SAUNDERS: And he is answering your</p> <p>7 question as the representative of World Avenue USA.</p> <p>8 MR. RING: Are you objecting?</p> <p>9 MR. SAUNDERS: Yeah, I'm going to object to</p> <p>10 the form of the question. You're just arguing with</p> <p>11 him, and you're misconstruing what he says.</p> <p>12 MR. RING: I've asked a very simple question.</p> <p>13 No. I'm asking for names of companies. I</p> <p>14 want to know what companies have used this agreement.</p> <p>15 It's been produced to us, it's part of the ESI</p> <p>16 production, it's blank as to names of companies. I</p> <p>17 want to know if it's been used by a company to his</p> <p>18 knowledge.</p> <p>19 THE WITNESS: To my knowledge I have no</p> <p>20 personal knowledge that this has been used by World</p> <p>21 Avenue USA.</p> <p>22 BY MR. RING:</p>	<p style="text-align: right;">128</p> <p>1 different. We didn't brief this issue. This document</p> <p>2 was produced pursuant to negotiations over the</p> <p>3 paragraphs in the ESI agreement as to what each party</p> <p>4 was going to voluntarily disclose to each other as part</p> <p>5 of this agreement, correct.</p> <p>6 MR. RING: There are several layers of</p> <p>7 requests. There's the ESI voluntary production,</p> <p>8 there's a notice of deposition with duces tecum</p> <p>9 attached, there's a large body of documents in addition</p> <p>10 to the ESI voluntary production that have also been</p> <p>11 produced.</p> <p>12 All this pertains to ESI. This is within the</p> <p>13 ESI documents in your letter of February 17th. It's</p> <p>14 fair game for questioning. We're here to talk about</p> <p>15 ESI.</p> <p>16 MR. SAUNDERS: Remembering that the ESI --</p> <p>17 MR. RING: I want to know the background.</p> <p>18 MR. SAUNDERS: The ESI deposition, and what</p> <p>19 that is supposed to cover, is a narrow scope.</p> <p>20 MR. RING: No.</p> <p>21 MR. SAUNDERS: Yes.</p> <p>22 MR. RING: We disagree. Sandy, we disagree.</p>

<p style="text-align: right;">157</p> <p>1 Q How many times have you been there to see that</p> <p>2 rack?</p> <p>3 A Less than five.</p> <p>4 Q How many of Kitara's servers are in that rack?</p> <p>5 A I do not know.</p> <p>6 Q More than 10?</p> <p>7 A The rack contains four physical servers.</p> <p>8 Q Are they all Kitara's?</p> <p>9 A The servers are virtualized.</p> <p>10 Q I appreciate that. Are they -- well, are they</p> <p>11 virtualized and then divided among other users besides</p> <p>12 Kitara?</p> <p>13 A Yes. That's where I was going with it, sorry.</p> <p>14 I wasn't being smart.</p> <p>15 Q I understand. I understand.</p> <p>16 We've talked about servers maintained by World</p> <p>17 Avenue for TheUseful and Kitara. I ask you now the</p> <p>18 same question, let me start, as to ThruChannel. What</p> <p>19 servers does World Avenue maintain for ThruChannel?</p> <p>20 A What kinds of servers?</p> <p>21 Q No, what servers. You can describe them any</p> <p>22 way you want to, and I'll follow up.</p>	<p style="text-align: right;">159</p> <p>1 And under the category of "other," meaning the</p> <p>2 other 50 percent, so far we have Kitara and</p> <p>3 ThruChannel.</p> <p>4 Are there any others in the "other" category?</p> <p>5 A World Avenue USA.</p> <p>6 Q That would be your employer, right?</p> <p>7 A Correct.</p> <p>8 Q And again, what services are provided -- do</p> <p>9 you provide for World Avenue USA related to servers?</p> <p>10 Is that the monitor, maintain function again?</p> <p>11 A Yes.</p> <p>12 Q And I think we went through the location of</p> <p>13 those servers. Are there any other locations other</p> <p>14 than what you've already given me?</p> <p>15 A No, those are the World Avenue servers.</p> <p>16 Q I understood that all of the World Avenue --</p> <p>17 all the World Avenue servers are located at the Sunrise</p> <p>18 Suite 100 location; am I correct?</p> <p>19 A That is not correct.</p> <p>20 Q Okay. Correct me.</p> <p>21 A Per the document that we submitted with the</p> <p>22 asset sheet, there are servers located in FiberMedia.</p>
<p style="text-align: right;">158</p> <p>1 A As I'm not a ThruChannel employee, I'm not the</p> <p>2 best person to answer that.</p> <p>3 Q Regardless of whether you're a ThruChannel</p> <p>4 employee, as a World Avenue employee, I'm asking you --</p> <p>5 let me ask first, what services does World Avenue</p> <p>6 provide for ThruChannel?</p> <p>7 A Again, the basic monitoring and maintaining of</p> <p>8 servers.</p> <p>9 Q Where are ThruChannel's servers located?</p> <p>10 A ThruChannel's servers are located in</p> <p>11 FiberMedia and the Bermuda data center.</p> <p>12 Q Is that the same one that you mentioned a</p> <p>13 minute ago, Cable & Wireless?</p> <p>14 A That is correct.</p> <p>15 Q As I understand it, the rough division of your</p> <p>16 time puts 50 percent of your time in doing services</p> <p>17 pertaining to TheUseful and the other 50 percent for</p> <p>18 doing services for other customers; is that correct?</p> <p>19 A That is correct, rough.</p> <p>20 Q Roughly.</p> <p>21 A Roughly.</p> <p>22 Q Understood.</p>	<p style="text-align: right;">160</p> <p>1 Q So those are -- there would be two locations</p> <p>2 for the World Avenue servers --</p> <p>3 A That is correct.</p> <p>4 Q -- Sunrise and Miami.</p> <p>5 A Yes.</p> <p>6 Q I refer you again to Exhibit 6, specifically</p> <p>7 paragraph 1(c). Are you with me?</p> <p>8 A Yes.</p> <p>9 Q The heading there says:</p> <p>10 "Transfer of Data. Company shall transmit</p> <p>11 data ('Report') to Advertiser as set forth in</p> <p>12 the IO or at Advertiser's request."</p> <p>13 Have you ever been involved in the transmittal</p> <p>14 of data as described in that sentence?</p> <p>15 A Me personally, I've never been involved in</p> <p>16 transmitting data according to this sense.</p> <p>17 Q Okay. Do you know if such data has ever been</p> <p>18 sent?</p> <p>19 A I would have no way of knowing that.</p> <p>20 Q I refer you to the final page of Exhibit 6.</p> <p>21 That's document 6514. At the top it says "Insertion</p> <p>22 Order, Master Advertising Agreement."</p>

<p style="text-align: right;">185</p> <p>1 Q Do you know if he provides services for any</p> <p>2 entity other than World Avenue?</p> <p>3 A I wouldn't speculate as to his services.</p> <p>4 Sorry.</p> <p>5 MR. RING: Mark this. On No. 8, Mike.</p> <p>6 (Whereupon, Plaintiff's Exhibit 8 was marked</p> <p>7 for identification and attached to the transcript.)</p> <p>8 MR. RING: Mr. Schlotter, I'm handing you</p> <p>9 what's been marked as deposition Exhibit 8. We have a</p> <p>10 copy for your counsel. I'll represent for the record</p> <p>11 this is another -- it appears to be a contract. It's</p> <p>12 Bates numbered WAUSA 6532 through 6548.</p> <p>13 Q Do you agree I've described it correctly?</p> <p>14 A Yes.</p> <p>15 Q Have you seen it before today?</p> <p>16 A No.</p> <p>17 Q All right. We'll move quickly through this</p> <p>18 one. I just want to know for the record, we have these</p> <p>19 three contracts we've marked in a row here, Exhibits 6,</p> <p>20 7 and 8.</p> <p>21 I would like to be able to ask the appropriate</p> <p>22 witness where is the ESI that confirms whether or not</p>	<p style="text-align: right;">187</p> <p>1 witness pretty much has explained to you so far. So we</p> <p>2 can -- both you and I can talk about that.</p> <p>3 MR. RING: Okay. We'll talk about it. I'm</p> <p>4 not waiving any rights. We're reserving all our</p> <p>5 rights. But we can talk.</p> <p>6 MR. SAUNDERS: I understand.</p> <p>7 MR. RING: Let's move to the next one,</p> <p>8 Exhibit 9.</p> <p>9 (Whereupon, Plaintiff's Exhibit 9 was marked</p> <p>10 for identification and attached to the transcript.)</p> <p>11 MR. RING: Handing you Exhibit 9,</p> <p>12 Mr. Schlotter.</p> <p>13 Q I'll ask if you can identify it.</p> <p>14 A Yes.</p> <p>15 Q What is it?</p> <p>16 A It is the document produced by World Avenue</p> <p>17 for IP addresses belonging to World Avenue.</p> <p>18 Q Is this information currently accurate?</p> <p>19 A Yes.</p> <p>20 Q Have there ever been any other IP addresses</p> <p>21 that have belonged to World Avenue?</p> <p>22 A Not to my knowledge.</p>
<p style="text-align: right;">186</p> <p>1 these documents have been used and what data has been</p> <p>2 filled in, if indeed they're used.</p> <p>3 I need the data naming the parties, the dates</p> <p>4 the agreements were entered, and information about the</p> <p>5 creation of these documents.</p> <p>6 And obviously, Mr. Schlotter, I gather you</p> <p>7 don't know that information; is that correct?</p> <p>8 A That is correct.</p> <p>9 Q So I'm just making a proffer, and I'm</p> <p>10 indicating that I have to believe there's got to be a</p> <p>11 body of ESI information that is what I just described</p> <p>12 as the fill-in information for these contracts.</p> <p>13 So I would like to ask the right person how do</p> <p>14 I get that data in the appropriate time and place. And</p> <p>15 I don't know if it's an extension of this deposition or</p> <p>16 what.</p> <p>17 A For World Avenue USA?</p> <p>18 Q Yes.</p> <p>19 MR. SAUNDERS: I would probably say the</p> <p>20 appropriate person to ask is me. And we could talk</p> <p>21 about how to do that. I would say that it is not an</p> <p>22 extension of this deposition for reasons that the</p>	<p style="text-align: right;">188</p> <p>1 Q And does this sheet identify ranges of</p> <p>2 addresses?</p> <p>3 A Yes.</p> <p>4 Q Explain to me how to read the ranges?</p> <p>5 A For the first one -- we'll start at the top.</p> <p>6 That is the ranged 12.88.25.44 through 47 due to the</p> <p>7 /30 mark.</p> <p>8 Q Okay. I see /30. I don't know where you get</p> <p>9 47.</p> <p>10 A It's a subnet mask. It denotes the actual</p> <p>11 amount of IP addresses that exist within that network</p> <p>12 range. CIDR notation.</p> <p>13 Q I'm dense. I don't see the 47.</p> <p>14 A I was explaining -- you said there were</p> <p>15 ranges. I was explaining to you that 12.88.24.44/30</p> <p>16 (sic), that denotes that the IP addresses in question</p> <p>17 for this range are 12.88.25.44 through 47. So</p> <p>18 12.88.25.44, 12.88.25.45, 12.88.25.46 --</p> <p>19 Q Got the sequence. Okay.</p> <p>20 A Okay. And then 47 is the last one. So there</p> <p>21 are four IP addresses within that range.</p> <p>22 MR. ROTHMAN: Where's the 47?</p>

<p>201</p> <p>1 Q ARIN being another, correct?</p> <p>2 A ARIN is another, yes.</p> <p>3 Q And then if you type in WHOIS, you'll get</p> <p>4 thousands of hits. Lot of tools, right?</p> <p>5 A Absolutely.</p> <p>6 Q Do they all provide basically the same</p> <p>7 information, based on your experience?</p> <p>8 A Yes, without membership into those systems,</p> <p>9 which can actually provide you additional information.</p> <p>10 Q Do you know if a lookup for the same IP</p> <p>11 addresses using another lookup tool besides ARIN would</p> <p>12 generate different information in that it might provide</p> <p>13 the name of the admin and tech contacts?</p> <p>14 A I wouldn't speculate on that.</p> <p>15 Q Based on your experience, though, ARIN is a</p> <p>16 fairly reliable lookup tool isn't it?</p> <p>17 A Yes.</p> <p>18 Q Do you think it's unlikely that if ARIN didn't</p> <p>19 find a contact name that somebody else would?</p> <p>20 A I'm not sure that this was -- ARIN was used to</p> <p>21 produce this, so I can't answer that question.</p> <p>22 Q Where would I find the ESI that would show me</p>	<p>203</p> <p>1 MR. RING: Let's do No. 10.</p> <p>2 (Whereupon, Plaintiff's Exhibit 10 was marked</p> <p>3 for identification and attached to the transcript.)</p> <p>4 MR. RING: I'm handing you Exhibit 10,</p> <p>5 Mr. Schlotter.</p> <p>6 Q And I'll ask if you can identify it.</p> <p>7 A Yes.</p> <p>8 Q What is it?</p> <p>9 A I believe these were the screen shots taken in</p> <p>10 response to a -- oh, I'm sorry.</p> <p>11 The first two pages are screen shots taken in</p> <p>12 response to a document that we needed to produce.</p> <p>13 Q Okay.</p> <p>14 A And then the last one appears to be the</p> <p>15 procedure for backing up of World Avenue's corporate</p> <p>16 data.</p> <p>17 Q All right. If you'd go through these pages</p> <p>18 and tell me if we have inappropriately connected pages</p> <p>19 that don't belong together in one exhibit. We'll pull</p> <p>20 them apart if they need to be pulled.</p> <p>21 A It's two separate -- I believe it was to</p> <p>22 answer two separate requests.</p>
<p>202</p> <p>1 the true name of the admin and tech contacts for these</p> <p>2 IP addresses?</p> <p>3 A I am not sure if there's any ESI related to</p> <p>4 that. I can't be positive.</p> <p>5 Q Well, this document shows us ESI, right?</p> <p>6 A Yes.</p> <p>7 Q Where would you check to look into that?</p> <p>8 A I would probably go to our -- personally I</p> <p>9 would probably go to our CTO's assistant and ask her if</p> <p>10 she could pull up the contracts to see if any tech</p> <p>11 contact information was given at time of registration.</p> <p>12 Q Who's the CTO?</p> <p>13 A Scott Barbour.</p> <p>14 Q And who's his assistant you're referring to?</p> <p>15 A Michelle Kahn.</p> <p>16 Q Spell her last name, please.</p> <p>17 A Kahn.</p> <p>18 Q Who is Scott Barber's employer?</p> <p>19 A I believe it's World Avenue USA.</p> <p>20 Q Same for Michelle?</p> <p>21 A I think so, yes. I apologize. I haven't</p> <p>22 memorized the org chart.</p>	<p>204</p> <p>1 Q Okay. Tell me where the break occurs.</p> <p>2 A After the screen shots.</p> <p>3 Q Okay. So we would take the screen shots and</p> <p>4 keep them together with that face page.</p> <p>5 Am I good so far? Does it make sense?</p> <p>6 A Yeah, face page means --</p> <p>7 Q The one that says "Responsive to ESI Agreement</p> <p>8 Paragraphs 1 and 2."</p> <p>9 A Yeah, I don't know what that means, so . . .</p> <p>10 Q So let's separate them. And before we start</p> <p>11 putting more labels on, I want to make sure, are the</p> <p>12 last three pages properly put together as one exhibit?</p> <p>13 A It should be four pages on my count.</p> <p>14 Q Oh, you're right. Okay. So the second</p> <p>15 exhibit is 7018 through 7021 in the Bates number,</p> <p>16 lower-right corner, correct?</p> <p>17 A That is correct.</p> <p>18 Q All right. So why don't he call that 10A,</p> <p>19 because I've already started -- my numbering goes</p> <p>20 through a whole series, and I want to keep it the same.</p> <p>21 So let's make 10 just pages Bates No. WAUSA 7016 and</p> <p>22 7017, and we'll make 10A WAUSA 7018 through 7021.</p>

<p>225</p> <p>1 Q I mean he personally? His team. All right.</p> <p>2 Iron mountain is a service that stores papers,</p> <p>3 data, various things, right?</p> <p>4 A That store, that shred. They do a lot of</p> <p>5 things.</p> <p>6 MR. RING: Right. Let's take a break. The</p> <p>7 tape is running out.</p> <p>8 THE VIDEOGRAPHER: This marks the end of</p> <p>9 Videotape No. 2 in the deposition of Chadd Schlotter.</p> <p>10 The time is now 3:52 p.m.</p> <p>11 (Recess taken.)</p> <p>12 THE VIDEOGRAPHER: We're back on the record.</p> <p>13 Here marks the beginning of Videotape No. 3 in the</p> <p>14 deposition of Chadd Schlotter. The time is now</p> <p>15 4:16 p.m.</p> <p>16 MR. RING: Mr. Schlotter, I had asked you some</p> <p>17 questions a while ago about registration of IP</p> <p>18 addresses and Exhibit 9. I don't need that exhibit</p> <p>19 again.</p> <p>20 Q But I just -- segue from that, I want to ask</p> <p>21 you whether World Avenue has -- first of all, have</p> <p>22 they registered any domain names that are in any way</p>	<p>227</p> <p>1 A I don't know. I apologize.</p> <p>2 Q All right. Has World Avenue taken upon itself</p> <p>3 to do any registration of domain names that are</p> <p>4 actually registered in the name of TheUseful?</p> <p>5 A I don't know.</p> <p>6 Q All right. Has World Avenue provided any</p> <p>7 services that pertain to the domain name</p> <p>8 venidadeelmundo.biz? And that's spelled</p> <p>9 v-e-n-i-d-a-d-e-e-l-m-u-n-d-o.biz.</p> <p>10 A I do not.</p> <p>11 Q I've got a long list of domain names that I</p> <p>12 want to ask that same question on, and apparently it's</p> <p>13 World Avenue Document 1102 where this list begins.</p> <p>14 Some of the domain names are WorldAvenue.com,</p> <p>15 World-Avenue.com, World-Avenue.info.</p> <p>16 Are you familiar with those domain names that</p> <p>17 I've just recited?</p> <p>18 A I'm familiar with WorldAvenue.com.</p> <p>19 Q And those are domain names that are, in fact,</p> <p>20 registered by World Avenue?</p> <p>21 A I have not personally looked at the</p> <p>22 registration to know that. I know that was a domain</p>
<p>226</p> <p>1 connected to the business of TheUseful.</p> <p>2 MR. SAUNDERS: I object to the form of the</p> <p>3 question.</p> <p>4 Go ahead and answer if you can.</p> <p>5 THE WITNESS: I am not directly responsible</p> <p>6 for registering domain names, so I wouldn't have the</p> <p>7 answer to that.</p> <p>8 BY MR. RING:</p> <p>9 Q Is your answer that you don't know?</p> <p>10 A I don't know, yes, that's fine. Sorry.</p> <p>11 Q Let me tailor the question a little</p> <p>12 differently.</p> <p>13 Has World Avenue registered any domain names?</p> <p>14 A Yes.</p> <p>15 Q Do you know any of those domain names?</p> <p>16 A I believe we've provided a list of the</p> <p>17 domains.</p> <p>18 Q Has TheUseful registered any domain names?</p> <p>19 A I do not -- I do not work for TheUseful,</p> <p>20 therefore I don't have that information.</p> <p>21 Q If you don't know, you can just tell me you</p> <p>22 don't know.</p>	<p>228</p> <p>1 that was provided as part of the list of domains.</p> <p>2 Q Okay. Provided meaning produced in discovery?</p> <p>3 A Produced in discovery, I apologize. Yes.</p> <p>4 Still learning.</p> <p>5 Q Are you familiar with any ESI that would show</p> <p>6 when someone clicks on a URL that contains</p> <p>7 World-Ave.com?</p> <p>8 A No. I apologize.</p> <p>9 Q And my question is where the user ends up</p> <p>10 clicking on a URL that contains that domain name.</p> <p>11 A So the first part of your question you were</p> <p>12 asking about ESI, and then you're asking whether a</p> <p>13 user, so can you repeat the question?</p> <p>14 Q Yeah, I'm asking about ESI that would show</p> <p>15 where the user ends up.</p> <p>16 A I am not aware of any of that ESI.</p> <p>17 Q Who do you believe would have that</p> <p>18 information?</p> <p>19 A Depending on the -- where the domain is</p> <p>20 actually hosted, it would be on that server.</p> <p>21 Q Does World Avenue host domain names?</p> <p>22 A Yes.</p>

<p style="text-align: right;">273</p> <p>1 Q Okay. And what ESI is created as a result of</p> <p>2 that monitoring?</p> <p>3 MR. SAUNDERS: Objection; asked and answered.</p> <p>4 Go ahead and answer.</p> <p>5 THE WITNESS: We've already talked about it.</p> <p>6 BY MR. RING:</p> <p>7 Q Same as before?</p> <p>8 A Yes.</p> <p>9 Q And what I want to know more specifically --</p> <p>10 A Sure.</p> <p>11 Q -- you've given me categories of information.</p> <p>12 I want to know which websites of TheUseful that</p> <p>13 information has been generated for.</p> <p>14 MR. SAUNDERS: Objection; asked and answered.</p> <p>15 Go ahead and answer again.</p> <p>16 MR. RING: No.</p> <p>17 THE WITNESS: So to be specific, the Keynote</p> <p>18 monitors -- with any domain name it gets resolved to an</p> <p>19 IP address. So in the monitoring of that, World Avenue</p> <p>20 USA is monitoring an IP address not specific to a</p> <p>21 domain name. Those domain names happen to be used</p> <p>22 though, because they were provided to us by TheUseful</p>	<p style="text-align: right;">275</p> <p>1 Q Aside from Keynote, what are the other</p> <p>2 monitoring tools?</p> <p>3 A As I've said before, Nagios.</p> <p>4 Q Are there any others besides those two?</p> <p>5 A Not to my knowledge.</p> <p>6 MR. RING: This is 15. It's these three --</p> <p>7 four.</p> <p>8 Q What tools are used by World Avenue when it</p> <p>9 provides maintenance services for TheUseful?</p> <p>10 A What is your definition of maintenance</p> <p>11 services?</p> <p>12 Q I want to use it the same way you used it.</p> <p>13 You've testified that World Avenue provides maintenance</p> <p>14 services.</p> <p>15 A I believe I said managed and monitored.</p> <p>16 Q Managed and monitored.</p> <p>17 A Correct.</p> <p>18 Q Okay. Is any other software besides Keynote</p> <p>19 or Nagios used for any aspect of management and</p> <p>20 monitoring?</p> <p>21 A Yes.</p> <p>22 Q What?</p>
<p style="text-align: right;">274</p> <p>1 as a domain name to use to monitor those servers.</p> <p>2 BY MR. RING:</p> <p>3 Q So what IP addresses of TheUseful has World</p> <p>4 Avenue monitored?</p> <p>5 MR. SAUNDERS: Objection; asked and answered.</p> <p>6 Go ahead and try it again to the best you can.</p> <p>7 THE WITNESS: There are multiple IP addresses</p> <p>8 that World Avenue monitors for TheUseful.</p> <p>9 BY MR. RING:</p> <p>10 Q Are they listed in any of the documents you</p> <p>11 provided us?</p> <p>12 A No, because they do not belong to the World</p> <p>13 Avenue USA.</p> <p>14 Q Well, regardless of who they belong to, if</p> <p>15 you're monitoring them, we're interested in them,</p> <p>16 because you're providing services related to</p> <p>17 TheUseful's business.</p> <p>18 So what records exist that show those IP</p> <p>19 addresses?</p> <p>20 A Records within the monitoring tools by World</p> <p>21 Avenue USA will show what IP addresses are monitored</p> <p>22 for customers of World Avenue USA.</p>	<p style="text-align: right;">276</p> <p>1 A Secure Shell client would be used to log in to</p> <p>2 the servers.</p> <p>3 Q Any others?</p> <p>4 A A application called Cacti.</p> <p>5 Q Spell that.</p> <p>6 A C-a-c-t-i.</p> <p>7 Q What does it do?</p> <p>8 A It's bandwidth monitoring and graphing.</p> <p>9 Q Bandwidth monitoring and graphing?</p> <p>10 A Graphing, yes.</p> <p>11 Q What does that mean, graphing?</p> <p>12 A Paints a pretty picture so everybody can see</p> <p>13 it without having to look at text.</p> <p>14 Q And that relates to bandwidth?</p> <p>15 A Yes.</p> <p>16 Q So it shows a what? A time line with</p> <p>17 bandwidth usage, spikes, graphics?</p> <p>18 A That's correct, yes.</p> <p>19 Q Different colors if you want them?</p> <p>20 A It can be, yes.</p> <p>21 Q But you're interested in bandwidth usage for</p> <p>22 what reason?</p>

<p>309</p> <p>1 A World Avenue USA does not send commercial 2 email. 3 Q I understand that. But they provide services 4 to other entities, right? 5 A Yes. 6 Q And regardless of whether World Avenue sends 7 any email, does there exist any ESI that pertains to 8 the handling of suppression list violations? 9 A I don't know. 10 Q Are you familiar with any memoranda or 11 procedures for anything called compliance monitoring or 12 compliance monitoring Level 1 violations? 13 A No. 14 Q Do you know who would have a better idea of 15 what that's all about? 16 A I do not. 17 Q Is there a division at World Avenue that 18 handles issues related to compliance with CAN-SPAM for 19 purposes of online marketing? 20 A No. 21 Q Do you know if World Avenue contracts with 22 anyone else for that purpose?</p>	<p>311</p> <p>1 Are you aware of the existence of any ESI that 2 pertains to services provided by World Avenue for an 3 entity called World Avenue Management, Inc.? 4 A No. 5 Q Same question for World Avenue IP, LLC. 6 A No. 7 Q Same question for Infrastructure International 8 Limited Corp. 9 A No. 10 Q And when I say you, are you aware, I'm really 11 asking the corporation because you're here as a 12 30(b)(6). So does World Avenue know of the existence 13 of any ESI pertaining to its provision of services to 14 the following entities. The next one I have is World 15 Avenue Services, Inc. 16 MR. SAUNDERS: Object to the form of the 17 question. 18 Go ahead and answer if you can. 19 THE WITNESS: I'll change my answer then to I 20 don't know. Sorry. 21 BY MR. RING: 22 Q Same question regarding Warwick Interactive,</p>
<p>310</p> <p>1 A No. 2 Q Are you aware of any consultants that have 3 been hired by World Avenue for purposes of providing 4 advice on how to comply with CAN-SPAM or any other 5 anti-SPAM statutes? 6 MR. SAUNDERS: I'm going to object. This is 7 well beyond ESI and beyond the scope of the ESI 8 agreement or the notice of the deposition. 9 MR. RING: Well -- 10 MR. SAUNDERS: Go ahead and answer. 11 But let's go back to what he's here for. 12 THE WITNESS: I don't know. 13 MR. RING: Okay. Well, I mean, we don't have 14 to debate on the record, but I do have to say 15 something. And that is, some documents that WAUSA has 16 produced -- and indeed the ones that are named in the 17 letter that refers to ESI documents -- include 18 documents that pertain to suppression lists and related 19 topics. And all I'm trying to do is find out what 20 other ESI exists on this topic. He doesn't know, so 21 we'll move on. 22 Q Has World Avenue provided -- strike that.</p>	<p>312</p> <p>1 LLC? 2 MR. SAUNDERS: Same objection. 3 Go ahead and answer. 4 THE WITNESS: I don't know. 5 BY MR. RING: 6 Q Same question regarding Bristol Interactive, 7 LLC dba Kitara Media? 8 MR. SAUNDERS: Same objection. 9 Go ahead and answer. 10 THE WITNESS: I don't know. 11 BY MR. RING: 12 Q I want to understand what I heard earlier. I 13 thought you indicated that there had been some services 14 provided by World Avenue for Kitara? 15 A Yes, we manage -- they're one of our clients. 16 Q Do you know the name Bristol Interactive, LLC 17 in association with Kitara? 18 A I've heard it, yes. 19 Q Do you know if they refer to the same entity, 20 both names? 21 A No, I don't know that. 22 Q Does World Avenue have any ESI that is</p>